

## § 648.75

## 50 CFR Ch. VI (10–1–01 Edition)

REGISTER specifying the conversion factor.

(3) If the Regional Administrator makes the determination specified in paragraph (b)(1) of this section, he/she may authorize the vessel owner to shuck surf clams or ocean quahogs at sea. Such authorization shall be in writing and be carried aboard the vessel.

### § 648.75 Cage identification.

Except as provided in § 648.76, the following cage identification requirements apply to all vessels issued a Federal fishing permit for surf clams and ocean quahogs:

(a) *Tagging.* Before offloading, all cages that contain surf clams or ocean quahogs must be tagged with tags acquired annually under paragraph (b) of this section. A tag must be fixed on or as near as possible to the upper crossbar of the cage for every 60 ft<sup>3</sup> (1,700 L), or portion thereof, of the cage. A tag or tags must not be removed until the cage is emptied by the processor, at which time the processor must promptly remove and retain the tag(s) for collection or disposal as specified by the Regional Administrator.

(b) *Issuance.* The Regional Administrator will issue a supply of tags to each individual vessel owner qualifying for an allocation under § 648.70 prior to the beginning of each fishing year or he/she may specify, in the FEDERAL REGISTER, a vendor from whom the tags shall be purchased. The number of tags will be based on the owner's allocation. Each tag represents 32 bu (1,700 L) of allocation.

(c) *Expiration.* Tags will expire at the end of the fishing year for which they are issued, or if rendered null and void in accordance with 15 CFR part 904.

(d) *Return.* Tags that have been rendered null and void must be returned to the Regional Administrator, if possible.

(e) *Loss.* Loss or theft of tags must be reported by the owner, numerically identifying the tags to the Regional Administrator by telephone as soon as the loss or theft is discovered and in writing within 24 hours. Thereafter, the reported tags shall no longer be valid for use under this part.

(f) *Replacement.* Lost or stolen tags may be replaced by the Regional Administrator if proper notice of the loss is provided by the person to whom the tags were issued. Replacement tags may be purchased from the Regional Administrator or a vendor with a written authorization from the Regional Administrator.

(g) *Transfer.* See § 648.70(b)(2).

(h) *Presumptions.* Surf clams and ocean quahogs found in cages without a valid state tag are deemed to have been harvested in the EEZ and to be part of an individual's allocation, unless the individual demonstrates that he/she has surrendered his/her Federal vessel permit issued under § 648.4(a)(4) and conducted fishing operations exclusively within waters under the jurisdiction of any state. Surf clams and ocean quahogs in cages with a Federal tag or tags, issued and still valid pursuant to this section, affixed thereto are deemed to have been harvested by the individual allocation holder to whom the tags were issued under § 648.75(b) or transferred under § 648.70(b).

[61 FR 34968, July 3, 1996, as amended at 63 FR 27485, May 19, 1998]

### § 648.76 Maine mahogany quahog zone.

(a) *Landing requirements.* (1) A vessel issued a valid Maine mahogany quahog permit pursuant to § 648.4(a)(4)(i), and fishing for or possessing ocean quahogs within the Maine mahogany quahog zone, must land its catch in the State of Maine.

(2) A vessel fishing under an individual allocation permit, regardless of whether it has a Maine mahogany quahog permit, fishing for or possessing ocean quahogs within the zone, may land its catch in the State of Maine, or, consistent with applicable state law in any other state that utilizes food safety-based procedures including sampling and analyzing for PSP toxin consistent with those food safety-based procedures used by the State of Maine for such purpose, and must comply with all requirements in §§ 648.70 and 648.75. Documentation required by the state and other laws and regulations applicable to food safety-based procedures must be made available by federally-permitted dealers for inspection by NMFS.

(b) *Quota monitoring and closures*—(1) *Catch quota.* (i) The annual quota for harvest of mahogany quahogs from within the Maine mahogany quahog zone is 100,000 Maine bushels (35,150 hL). The quota may be revised annually within the range of 17,000 and 100,000 Maine bushels (5,975 and 35,150 hL) following the procedures set forth in § 648.71.

(ii) All mahogany quahogs landed for sale in Maine by vessels issued a Maine mahogany quahog permit and not fishing for an individual allocation of ocean quahogs under § 648.70 shall be applied against the Maine mahogany quahog quota, regardless of where the mahogany quahogs are harvested.

(iii) All mahogany quahogs landed by vessels fishing in the Maine mahogany quahog zone for an individual allocation of quahogs under § 648.70 will be counted against the ocean quahog allocation for which the vessel is fishing.

(iv) The Regional Administrator will monitor the quota based on dealer reports and other available information and shall determine the date when the quota will be harvested. NMFS shall publish notification in the FEDERAL REGISTER advising the public that, effective upon a specific date, the Maine mahogany quahog quota has been harvested and notifying vessel and dealer permit holders that no Maine mahogany quahog quota is available for the remainder of the year.

(2) *Maine Mahogany Quahog Advisory Panel.* The Council shall establish a Maine Mahogany Quahog Advisory Panel consisting of representatives of harvesters, dealers, and the Maine Department of Marine Resources. The Advisory Panel shall make recommendations, through the Surf Clam and Ocean Quahog Committee of the Council, regarding revisions to the annual quota and other management measures.

[63 FR 27485, May 19, 1998]

**§ 648.77 Framework adjustments to management measures.**

(a) *Within season management action.* The Council, at any time, may initiate action to add or adjust management measures within the Atlantic Surf Clam and Ocean Quahog FMP if it finds that action is necessary to meet or be

consistent with the goals and objectives of the plan.

(1) *Adjustment process.* The Council shall develop and analyze appropriate management actions over the span of at least two Council meetings. The Council must provide the public with advance notice of the availability of the recommendation(s), appropriate justification(s) and economic and biological analyses, and the opportunity to comment on the proposed adjustment(s) at the first meeting, and prior to and at the second Council meeting. The Council's recommendations on adjustments or additions to management measures must come from one or more of the following categories: The overfishing definition (both the threshold and target levels) description and identification of EFH (and fishing gear management measures that impact EFH), habitat areas of particular concern, set aside quota for scientific research, vessel tracking system, optimum yield range.

(2) *Council recommendation.* After developing management actions and receiving public testimony, the Council shall make a recommendation to the Regional Administrator. The Council's recommendation must include supporting rationale, if management measures are recommended, an analysis of impacts, and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If the Council recommends that the management measures should be issued as a final rule, it must consider at least the following factors, and provide support and analysis for each factor considered:

(i) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether the regulations would have to be in place for an entire harvest/fishing season.

(ii) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of recommended management measures.

(iii) Whether there is an immediate need to protect the resource.

(iv) Whether there will be a continuing evaluation of management